

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to tourist-oriented directional signing and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 119, “Tourist-Oriented Directional Signing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.252.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 321.252.

Purpose and Summary

Currently, Chapter 119 limits participation for tourist-oriented directional signing to businesses that provide motorist services such as gas, food, and lodging, and to other businesses or sites that may be deemed “of significant interest to the traveling public.” This key phrase has been the subject of substantial discussion for many years between applicants, Department staff, and the Tourist Signing Committee. The decision as to whether a particular site is of significant interest to the traveling public has been made by majority vote of the Committee, after a presentation (photographs, descriptions, etc.) is given by Department staff at a regular monthly meeting. Although the Committee is diverse and adequately represents the various agencies and organizations related to tourism in Iowa, the qualifying standard of being “of significant interest to the traveling public” allows for a fair amount of subjectivity, despite attempts by the Committee to remain consistent and draw reasonable lines. Opinions might well be limited only by the number of people asked, and obviously rely greatly on intangible factors.

This proposed rule making aims to include more businesses into the program by adopting a less subjective singular set of standards for all applicants. This change will benefit more rural businesses that are not positioned along a highway and still serve the original program objective of providing service and tourist information to the traveling public.

The following paragraphs further explain each proposed amendment:

- A definition of “destination” is created so that this term can be used throughout the chapter instead of the phrase “activity or site.” This term matches the term used in the “Manual on Uniform Traffic Control Devices” (MUTCD), Chapter 2K, published by the U.S. Department of Transportation.
- The definition of “tourist-oriented directional signing” is amended so the term refers to a system of guide signs that display the identification of and directional information for an eligible destination.
- Subrule 119.3(1) is expanded to include the minimum operational requirements for all businesses.
 - Existing requirements relating to the location of a destination are retained and grouped together.
 - A condition is added to require that a major portion of income or visitors come from road users not residing in the area of the destination. This language is contained in the MUTCD and serves as the minimum baseline for being a “tourist-oriented” program under federal requirements.
 - Two existing requirements relating to compliance with other laws and regulations are grouped together.
 - The four categories describing how applicants can qualify are eliminated.
 - The title of the appropriate office for contacting purposes is corrected.
 - Proper nouns are replaced by general terms to reflect the committee’s composition.

The Tourism Signing Committee has approved the proposed amendments within Chapter 119.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, there may be a slight positive impact on jobs because the easing of entry requirements will increase the number of businesses being able to qualify for the signing program. The signs are installed in advance of intersections where the businesses can be accessed and generally boost customer traffic to the business. These changes may lead to a demand for more employees.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on February 28, 2023. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Government and Community Relations
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 2, 2023, via conference call at 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on February 28, 2023, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of “Destination” in rule **761—119.1(321)**:

“*Destination*,” for the purpose of this chapter, means a business, service, activity, or site that meets the program requirements established in rule 761—119.3(321).

ITEM 2. Amend rule ~~761—119.1(321)~~, definition of “Tourist-oriented directional signing,” as follows:

~~“Tourist-oriented directional signing” is official signing that is located within the right-of-way of a primary highway and that identifies and gives directions to activities or sites of significant interest to the traveling public. However, official signing for campgrounds and ski area facilities is not included in this definition. This signing is provided for elsewhere~~ means a system of guide signs with one or more sign panels that display the identification of and directional information for an eligible destination.

ITEM 3. Amend paragraph ~~119.2(2)~~“a” as follows:

a. Tourist-oriented directional signing shall be installed only when sufficient space is available. The determination of whether sufficient space is available is the responsibility of the department in accordance with the MUTCD and department policies. If the number of applications exceeds the capacity to accommodate all of the requests, a lottery drawing shall be held to determine which applications will be accepted. However, ~~activities and sites which~~ destinations that are already participating in the tourist-oriented directional signing program shall not be subject to the lottery drawing, provided that each applicant’s participation remains in compliance with this chapter, including the timely payment of fees.

ITEM 4. Amend paragraph ~~119.2(2)~~“b” as follows:

b. Tourist-oriented directional signing shall be installed in advance of the intersection where the motorist leaves the primary highway system to travel to the ~~activity or site~~ destination. However, tourist-oriented directional signs may be placed on a higher classified highway to direct motorists onto a lower classified highway, or on a greater traveled highway to direct motorists onto a lesser traveled highway.

ITEM 5. Amend subrule 119.2(3) as follows:

119.2(3) Message. The message on a tourist-oriented directional sign is limited to a descriptive name, a directional arrow, the travel distance to the ~~activity or site~~ destination, and in some cases for motorist services, an additional short word or acronym indicating an essential fuel type such as diesel, E-85, or EV (electric vehicle charging station). ~~However, if an agricultural business activity offers tours, the message for the activity shall include the word “tours.”~~

ITEM 6. Amend rule ~~761—119.3(321)~~ as follows:

~~761—119.3(321) General eligibility~~ Eligibility requirements for an ~~activity or site~~ a destination. This rule describes the general requirements which ~~an individual activity or site a destination~~ must meet to qualify for tourist-oriented directional signing.

~~119.3(1) Hours~~ Operational requirements. ~~The activity or site shall be open to the general public during regular and reasonable hours and not by appointment, reservation or membership only.~~

a. ~~Seasonal activities shall be in operation a minimum of four consecutive weeks~~ The destination shall be open to the general public for a minimum of 20 hours per week.

b. ~~The current months, days and hours of operation shall be conspicuously posted on the premises~~ The destination shall be open to the general public at least four days per week.

c. Hours of operation that are available to the public only by appointment, reservation, or membership shall not count toward meeting the minimum requirements set forth in this subrule.

d. Manufacturing plants, trucking terminals, distribution centers, warehouses, production facilities, and other industrial activities for which the general public has access but for which employees and contractors are the primary users shall not qualify as destinations. However, if the facility has developed public tours and is prepared to receive unscheduled visitors, the tourist signing committee may consider this information during the application review and make an exception to the general rule as set forth above.

e. Unless the destination is open 24 hours per day, the hours of operation shall be conspicuously posted on the destination premises.

f. Entrance to the destination shall not be restricted based on age.

g. The destination shall be properly licensed by all governing authorities relative to the nature of the activity engaged in by the destination.

h. Seasonal destinations shall be in operation for a minimum of four consecutive weeks.

~~119.3(2) *Building or area* Location requirements. The activity shall be conducted in an appropriate area or in a building appropriately designed or well-suited for the purpose.~~

~~a. The activity shall not be conducted in a building principally used as a residence unless there is a convenient, separate, and well-marked entrance. The destination shall be located within ten miles of the intersection on the primary highway where the tourist-oriented directional signs will be placed.~~

~~b. The building or area must be maintained in a manner consistent with standards generally accepted for that type of business or activity. The destination shall be located outside the city limits of any incorporated municipality with a population of 5,000 or more (population as established by the U.S. Census Bureau).~~

~~c. The destination shall not be visible from the highway in a way that allows for motorists to react safely by slowing and making a turn.~~

~~d. The building and site for the destination shall be appropriately designed and suited for the purpose. Buildings used principally as a residence shall not be used, unless there is a convenient, separate, and well-marked entrance to access the activity identified on the sign.~~

~~e. Buildings and grounds must be maintained in a manner consistent with standards generally accepted for that type of business or activity.~~

~~119.3(3) *Location of activity or site* Customer base. The activity or site shall be located: A destination shall derive a major portion of income or visitors from road users not residing in the area of the destination.~~

~~a. Within ten miles of the intersection on the primary highway where the tourist-oriented directional sign will be placed.~~

~~b. Outside the urban area, as established by the U.S. Census Bureau, of an incorporated municipality with a population of 5000 or more.~~

~~119.3(4) *Signing restrictions* Compliance with other laws and regulations. An activity or site does not qualify for a tourist-oriented directional sign if:~~

~~a. The activity or site or an on-premises sign advertising the activity or site is readily recognizable from the primary highway far enough ahead of the entrance to allow the motorist time to safely make the turn into the entrance. destination shall comply with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.~~

~~b. An advertising device which serves the activity or site is erected or maintained in violation of The destination shall comply with Iowa Code chapter 306B; Iowa Code chapter 306C, division II; or Iowa Code chapter 318; and all other statutes or administrative rules regulating outdoor advertising.~~

~~119.3(5) *Nondiscrimination*. The activity or site shall comply with all applicable laws concerning public accommodations without regard to age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability.~~

ITEM 7. Rescind and reserve rule **761—119.4(321)**.

ITEM 8. Amend rule 761—119.5(321) as follows:

761—119.5(321) Application and approval procedure.

119.5(1) Applications for tourist-oriented directional signing shall be submitted to: Advertising Management Section, Office of Traffic and Safety Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010.

119.5(2) No change.

119.5(3) The tourist signing committee consists of representatives from the economic development authority, the department of transportation, the department of agriculture and land stewardship, the department of natural resources, the department of cultural affairs, ~~the Travel Federation of Iowa~~ Iowa's

tourism industry, and the ~~Outdoor Advertising Association of~~ outdoor advertising association for Iowa. The committee's responsibility is to approve or deny applications.

ITEM 9. Amend rule 761—119.6(321) as follows:

761—119.6(321) Installation, maintenance, replacement and removal.

119.6(1) No change.

119.6(2) *Installation and maintenance of trailblazing signs.* If the ~~activity or site~~ destination is not located adjacent to the secondary road or city street intersecting the primary route, trailblazing signs are required. Trailblazing signs shall conform to requirements in the MUTCD.

a. to c. No change.

119.6(3) No change.

119.6(4) *Seasonal ~~activity or site~~ destination.* A tourist-oriented directional sign for a seasonal ~~activity or site~~ destination must either be masked or have a “closed” panel installed over the sign’s directional information when the ~~activity or site~~ destination is closed or when the hours of operation decrease below the minimum requirements during the off-season period. Either the department or the ~~activity or site~~ destination with the department’s permission shall perform the work. If the department performs the work, the approved applicant must pay the actual cost to install and remove the “closed” panel or to mask the sign.

119.6(5) *Required replacement.*

a. The department shall determine when a tourist-oriented directional sign is no longer serviceable and needs to be replaced. If such a determination is made, the ~~activity or site~~ destination must pay for the cost of a new sign and its installation prior to installation.

b. The department is not responsible for theft of or damage to any tourist-oriented directional signs ~~or damage to them caused by vandalism, vehicle accidents, or natural causes~~ sign. If a sign requires repair or replacement due to theft or damage, the ~~activity or site~~ destination must pay the cost of a new sign and its installation ~~the repair or replacement and installation~~. At the ~~activity’s or site’s~~ destination’s request, this cost may be spread over a 12-month period.

119.6(6) *Not-for-profit organizations.* A not-for-profit ~~organization operating an activity or site~~ in accordance with the requirements of this chapter ~~destination~~ is exempted from all fees and costs associated with the installation and maintenance of a single set of signs at a location determined by the department to be the most reasonable approach to the destination. If additional locations are requested by the not-for-profit organization, all fees and costs described in this chapter shall apply to the additional locations.

119.6(7) *Removal.* The department shall remove a tourist-oriented directional sign if the ~~activity or site~~ destination no longer qualifies for tourist-oriented directional signing. As official signs, all tourist-oriented directional signs are the property of the department and shall not be given to applicants upon the signs’ removal.